

MINUTES OF THE REGULAR CITY COUNCIL MEETING
TUESDAY- -SEPTEMBER 16, 2008- -7:30 P.M.

Mayor Johnson convened the Regular Meeting at 8:07 p.m.

ROLL CALL - Present: Councilmembers deHaan, Gilmore,
Matarrese, Tam, and Mayor Johnson - 5.

Absent: None.

AGENDA CHANGES

(08-384) Mayor Johnson announced that the Public Hearing to consider an Appeal of the Planning Board's Conditional Approval [paragraph no. 08-398] would be heard before the Public Hearing to consider an Appeal of the July 14, 2008, Planning Board Approval [paragraph no. 08-399].

PROCLAMATIONS, SPECIAL ORDERS OF THE DAY AND ANNOUNCEMENTS

(08-385) Proclamation honoring Bananas for thirty-five years of service.

Mayor Johnson read and presented the proclamation to Judy Kriege from Bananas.

Ms. Kriege thanked Council for the proclamation; stated serving the community is an honor; Bananas is looking forward to many years of service to the community.

(08-386) Proclamation declaring September 21 through 27 as Fall Prevention Awareness Week.

Mayor Johnson read and presented the proclamation to Jackie Krause from Mastick Senior Center.

Ms. Krause submitted a flyer and thanked Council for providing Mastick Senior Center to the community; stated the Annual Open house event will be held on Sunday, September 21 between 1:00 p.m. and 4:00 p.m.

Mayor Johnson inquired what is the age requirement for participating at the Mastick Senior Center.

Ms. Krause responded fifty and older; stated the oldest member is ninety-nine years old, lives in Oakland, walks five blocks, and takes two buses to volunteer at the Center two days per week.

(08-387) Mayor Johnson announced that there would be a Community

Action for a Sustainable Alameda (CASA) meeting at the "O" Club at Alameda Point on Wednesday, September 17, 2008, from 6:30 p.m. to 8:30 p.m.

(08-388) Presentation regarding the Fiscal Year 2007-2008 Façade Grant Program.

The Development Coordinator gave a Power Point presentation.

Mayor Johnson inquired about funding levels.

The Development Coordinator responded funding levels have been approximately the same amount for the last two years; stated tax increment funding is used.

Mayor Johnson inquired whether funding levels are adequate.

The Development Coordinator responded funds are running low; stated there is a waiting list for funding.

Kathy Moehring, West Alameda Business Association (WABA), stated WABA supports the grant funding; the grant funding brought Park Street and Webster Street together; Pappo's windows were reused at the Fireside Lounge.

Robb Ratto, Park Street Business Association (PSBA), thanked Council for the façade grant program; stated that the funding process is easier than in the past.

(08-389) The Interim Finance Director assured Council and the community that the American International Group (AIG) marketing activity has not affected the City's portfolio; stated the City has two guaranteed investment Contracts; one Contract invests reserve funds for redevelopment and one Contract invests reserve funds for the Community Facilities District Bond; the City has been assured by the City's portfolio managers that the federal government has decided to back AIG.

Mayor Johnson stated the City needs to watch CalPERS policies and investments because the City has retirement investments with CalPERS; the City would pay more money if CalPERS investments do not perform.

The Interim Finance Director stated CalPERS has altered its investment strategy because a significant amount of their portfolio was in real estate investment trusts and inter-City urban development projects which were not performing; an Off Agenda Report can be provided with a complete analysis CalPERS

investments; cost recovery changes if the portfolio does not perform and the City is not able to have investment earnings to help offset the costs.

Mayor Johnson stated the City picks up the tab if actuarial assumptions are off; requested that the matter be placed on a future agenda so the public understands the situation.

CONSENT CALENDAR

Mayor Johnson announced that the recommendation to authorize the City Manager to enter into MOU [paragraph no. 08-394] was removed from the Consent Calendar for discussion.

Councilmember Matarrese moved approval of the remainder of the Consent Calendar.

Councilmember deHaan seconded the motion, which carried by unanimous voice vote - 5. [Items so enacted or adopted are indicated by an asterisk preceding the paragraph number.]

(*08-390) Minutes of the Special Joint City Council, Alameda Reuse and Redevelopment Authority, and Community Improvement Commission Meetings held on August 19, 2008; the Special Joint City Council and Public Utilities Board Meeting, the Special Joint City Council, Community Improvement Commission and Housing Authority Board of Commissioners Meeting and the Regular City Council Meeting held on September 2, 2008; and the Special City Council Meetings held on September 3, 2008 and September 10, 2008. Approved.

(*08-391) Ratified bills in the amount of \$8,561,927.16.

(*08-392) Recommendation to authorize execution of a Grant of Easement to Pacific Gas & Electric for the Webster Street gas line relocation. Accepted.

(*08-393) Recommendation to adopt Plans and Specifications and authorize Call for Bids for Webster Street joint trench and utility relocation project, No. P.W. 08-08-23. Accepted.

(*08-394) Recommendation to authorize the City Manager to enter into a Memorandum of Understanding with the Alameda County Congestion Management Agency for the implementation of the Webster Street SMART Corridor Management Project in the amount of \$1,100,000, and to execute all necessary documents to implement the Project.

Vice Mayor Tam stated the project sounds very exciting; requested a

short synopsis on what is involved and what the \$1.1 million would cover.

The Supervising Civil Engineer stated the project would provide capacity enhancements without widening a street or adding more lanes; the main purpose of the project is to provide traffic signal priority, which offers transit buses extra green time; all Webster Street bus stops would have signs to alert riders when the next bus would arrive; signal coordination is another asset of the project; a new signal would be added at the Webster Street and Pacific Avenue intersection; signal pre-emption would be added along the Webster Street corridor for emergency response vehicles; the project would have Intelligent Transportation System elements; Microwave Vehicle Detection Systems would be added along the Webster Street corridor to collect real time traffic speed, volume, and lane occupancy data; cameras would be installed at key locations in order to monitor traffic.

Vice Mayor Tam stated that the project would be funded through grants and would not impact the General Fund.

Vice Mayor Tam moved approval of the staff recommendation.

Councilmember Gilmore seconded the motion, which carried by unanimous voice vote - 5.

(*08-395) Resolution No. 14265, "Supporting Measure WW, the Extension of the Regional Open Space, Wildlife, Shoreline and Parks Bond." Adopted.

(*08-396) Public Hearing to consider an Amendment to the Grand Marina Village Master Plan to adjust lot lines for five parcels in the development and adjust the boundaries of open space and a park within the development; and

(*08-396A) Introduction of Ordinance Approving Master Plan Amendment PLN08-0181 Adjusting Lot Sizes Within the Grand Marina Village Master Plan. Introduced.

REGULAR AGENDA ITEMS

(*08-397) Resolution No. 14266 "Reappointing Lamont Carter as a Member of the Youth Advisory Commission." Adopted.

Councilmember deHaan moved adoption of the resolution.

Councilmember Matarrese seconded the motion, which carried by unanimous voice vote - 5.

(08-398) Public Hearing to consider an Appeal of the Planning Board's Conditional Approval of a Major Design Review for an addition and a remodel that includes raising a single-family structure and constructing a detached two-story dwelling unit at 3327 Fernside Boulevard, within the R-2, Two-Family Residential Zoning District; and

(08-398A) Resolution No. 14267, "Denying an Appeal and Upholding the Planning Board Decision Conditionally Approving Major Design Review DR07-0086 For the Structural Expansion of a Single-Family Dwelling and the Addition of a Second Dwelling Unit at 3327 Fernside Boulevard." Adopted.

The Planning Manager gave a Power Point presentation.

Councilmember Gilmore inquired whether the Applicant would be limited to a thirty-foot height with the new condition, to which the Planning Manager responded in the affirmative.

Mayor Johnson inquired whether the proposed condition is the same condition that the Planning Board rejected.

The Planning Manager responded the proposed condition is a little different because a lower height maximum would be allowed.

Mayor Johnson inquired whether the Planning Board saw the proposed condition, to which the Planning Manager responded in the negative.

Councilmember Gilmore inquired whether the Applicant would be able to increase the height by no more than one foot, stay within the thirty-foot height limit, and rework the back of the house, to which the Planning Manager responded in the affirmative.

Councilmember Gilmore inquired whether the Planning Board discussed the concept of reworking the back of the house but did not think it was necessary, to which the Planning Manager responded in the affirmative.

Mayor Johnson stated that she is confused why a new condition would be added at this point.

The Planning Manager stated the new condition allows the Applicant to increase the height of the building, make it architecturally compatible, and stay within the guidelines.

Mayor Johnson inquired how long the project has been going on.

The Planning Manager responded the application went before the

Planning Board in June.

Mayor Johnson inquired whether the Applicant is requesting added height.

The Planning Manager responded in the affirmative; stated the added height would not exceed the height limit for the property's zoning district.

Mayor Johnson inquired whether the compromise has been discussed with the Applicant, to which the Planning Manager responded in the negative.

Mayor Johnson stated the process is odd.

Councilmember Gilmore stated the back of the house has an addition from some prior lifetime and is not architecturally significant; the [back of the] house faces the estuary and cannot be seen from the street; that she is trying to understand what is the motivation in requiring the condition.

The Planning Manager stated the condition would remain consistent with the Planning Board recommendation to achieve a condition that is architecturally compatible with the existing house.

Mayor Johnson inquired whether the matter went back to the Planning Board recently.

The Planning Manager responded that the matter went to the Planning Board in June for Design Review and went to the Planning Board earlier in the year when variances were requested.

Vice Mayor Tam stated the Planning Board stipulated that the structure should not exceed thirty-feet in height regardless of any architectural detail; staff indicated an architectural detail would exceed the thirty-foot height by nine inches; a condition is proposed to bring the height back under thirty feet which is in conformance with what the Planning Board gave as a general condition.

Councilmember deHaan inquired whether the Applicant would still need to clip the top of the house.

The Planning Manager responded the house would need to be clipped by approximately nine inches.

Councilmember deHaan inquired what is the reason for raising the building.

The Planning Manager responded the Applicant wants to provide height in the garage area.

Mayor Johnson opened the public portion of the hearing.

Proponents (In favor of Appeal): Patricia Baer, Alameda; Elizabeth Krase, Alameda Architectural Preservation Society (AAPS); Richard W. Rutter, AAPS; Nancy Hird, Alameda; Christopher Buckley, AAPS; Grinne Lambden, AAPS.

(Opponents (Not in favor of Appeal)): JoAnne Chandler, Alameda; Jon Spangler, Alameda; Kexis Brownson; Alameda; Donna Talbot, Applicant (submitted handout); James Rauk, Applicant.

There being no further speakers, Mayor Johnson closed the public portion of the hearing.

Mayor Johnson inquired whether the Applicants are not asking for any variances and are not exceeding the thirty-foot height limit, to which the Applicant responded in the affirmative.

Mayor Johnson inquired whether the Applicant was told that the Guidelines for Residential Design supercedes the Alameda Municipal Code.

The Applicant responded that a Planner told her that the Guidelines trump the Code.

Councilmember Gilmore inquired whether the thirty-foot height limit is the only Planning Board condition, to which the Applicant responded in the affirmative.

Councilmember Gilmore inquired whether tonight's recommendation is for the thirty-foot height limit, the one-foot height increase, and modifications to the back of the house, to which the Applicant responded in the affirmative.

Councilmember Gilmore inquired whether staff's recommendation is twelve inches and the Planning Board's recommendation is fifteen inches, to which the Planning Manager responded in the affirmative.

The Applicant questioned the three-inch change.

The Planning Manager stated the three inches is a compromise.

Mayor Johnson inquired who worked out the compromise, to which the Planning Manager responded staff.

Mayor Johnson inquired whether AAPS had any input on the compromise, to which the Planning Manager responded in the negative.

Councilmember Matarrese inquired whether raising [the house] fifteen inches and making adjustments to roof level would still be under thirty feet, to which the Applicant responded the peak would be thirty feet.

Councilmember Matarrese stated the proposed massing and appearance of the sides of the house are substantially larger; inquired how the matter was interpreted as meeting the characteristics of a craftsman style house; stated the intent of the guidance is not to replicate a house but to have certain attributes that make the house recognizable.

The Planning Manager stated staff recommends lowering the height where the windows meet the top plate and incorporating features, such as a dormer over the windows, to get craftsman architectural features.

Councilmember Matarrese inquired whether the elevation is obscured by a large house.

The Planning Manager responded the opposite side has a more public view of the side of the house.

Councilmember Gilmore stated the driveway side has a greater distance between houses; inquired whether the elevations are the same for both sides, to which the Planning Manager responded in the affirmative.

Mayor Johnson stated the Planning Board rejected the condition regarding changes to the side; inquired what is the relationship between the Guidelines and the Code.

The Planning Manager responded the Guidelines are a resource that the staff and public can use when evaluating a project for compatibility with a neighborhood or existing structure.

Mayor Johnson stated that the Planning Department needs to have a clear understanding of the Guidelines; stating that the Guidelines trump the Code is wrong.

Councilmember Gilmore stated the Planning Board and Applicants came to an agreement on what the Code and Guidelines require; the Planning Board agreed to go with the design but wanted to observe

the thirty-foot height limit; she is concerned that staff made changes after the fact and did not involve Applicant input.

Mr. Buckley stated that the Guide to Residential Design states: "In order for a design review application to be approved, finding must be made that the project conforms to the Guide to Residential Design."

Councilmember Matarrese stated the elevation is less busy than what would be for the right side elevation.

Councilmember deHaan stated the driveway is a concerning factor; old architecture allowed driveways slops down into the basement; level driveways have a nicer feel.

Councilmember Gilmore inquired whether staff advised the Applicant that they could raise the building twelve inches with a thirty feet limit in height, to which the Applicant responded in the affirmative.

Councilmember Gilmore stated that the Applicant questioned what happened to the extra three inches.

The Planning Manager stated the three inches are a compromise.

Vice Mayor Tam stated that she is trying to get to the point of blending form and function; inquired whether the twelve inches would allow sufficient room for handicap accessibility.

The Planning Manager responded in the affirmative; stated the garage roof layer would be raised to the height the Applicant would need; adjustments would be made to the peak of the roof.

Vice Mayor Tam stated that she does not understand what is so bad about raising the structure by fifteen inches.

The Planning Manager stated that staff developed a compromise between what was originally proposed which is not raising the building height at all and what the Planning Board approved, which is not allowing a building more than thirty feet.

Mayor Johnson inquired whether staff recommends changing the slope of the roof.

The Planning Manager responded the Applicant would need to change the upper slope to either achieve what staff recommends or what the Planning Board approved.

Mayor Johnson stated that the project was recommended to go to the Historical Advisory Board in error; the Applicants were ready to come to Council a month ago; an error was made in the noticing requirements; the project needs to move along.

Councilmember deHaan moved approval of upholding the Planning Board decision and overturning the appeal.

Vice Mayor Tam seconded the motion.

Under discussion, Vice Mayor Tam stated that the compromise is not between raising the building to be in conformance with the Code but is about trying to balance the form and necessity of the function of the building for the Applicant.

Councilmember Gilmore inquired whether Council would be denying the appeal and approving the Planning Board recommendation with the only condition that the building not exceed thirty feet, to which Councilmember deHaan and Vice Mayor Tam responded in the affirmative.

On the call for the question, the motion carried by unanimous voice vote - 5.

Councilmember Matarrese stated that the project has had a litany of fumbles; requested that a report be provided outlining preventative and corrective actions to prevent further occurrences, including communicating with applicants; the report should include information on the use of the Guide to Residential Design versus the Municipal Code, the place for review by the HAB, and notification process; stated this is not the first time that the notification issue has come up; he would like the report soon so that Council should hear the matter within a month so that the same mistakes are not made again.

Mayor Johnson stated the language in the section of the Guidelines referenced by Mr. Buckley creates ambiguity; requested that the Design Review Guidelines be brought back to Council for clarification.

The City Manager stated a resolution would be provided to the City Clerk to ensure that Council action is clearly recorded.

Councilmember Gilmore stated that she appreciates staff's efforts to move the project forward; staff reached a compromise and there was no communication with the property owner regarding the compromise; property owners need to be involved.

Councilmember Matarrese stated the requested report should include some analysis of the root cause; he wants to be convinced that the correction matches the cause; delays cost the Applicant and City money.

Mayor Johnson stated that delays cost staff time also.

Mayor Johnson called a recess at 9:57 p.m. and reconvened the Regular City Council meeting at 10:11 p.m.

(08-399) Public Hearing to consider an Appeal of the July 14, 2008, Planning Board Approval of Major Design Review PLN08-0090, Allowing the Reconstruction of Building 1000, located in the Alameda Towne Centre at 2230 South Shore Center; and

(08-399A) Resolution No. 14268, "Upholding the Planning Board's Approval of Major Design Review PLN08-0090, Allowing the Reconstruction of Building 1000, Located in the Alameda Towne Centre, at 2230 South Shore Center." Adopted.

The Supervising Planner gave a Power Point presentation.

Councilmember Gilmore inquired what type of process Orchard Supply Hardware (OSH) would have to go through if they decided to take the building "as is"; further inquired how long the process would take.

The Supervising Planner responded OSH would need to get a business license; a permit would be needed if OSH wanted a sign; stated the process could be completed in a morning.

Councilmember Gilmore inquired whether OSH could go in as a matter of course if exterior changes were not being proposed.

The Supervising Planner responded a hardware store is a permitted use in the zoning district; stated there would be no discretionary entitlement.

Councilmember Matarrese inquired whether the City has the legal right to exclude OSH from the permitted use within the Center, to which the City Attorney responded in the negative.

Councilmember Matarrese inquired whether the City could prohibit another coffee shop in the Center if other coffee shop merchants said no.

The City Attorney responded in the negative; stated the tenant does

not need to get permission if the use is permitted.

Mayor Johnson opened the public portion of the hearing.

Proponents (In favor of Appeal): David Giovannoli, Pagono's Hardware; Claire Yeaton-Risley, Alameda; Holly Sellers, Alameda; Patty Jacobs, Greater Alameda Business Association; Richard Burgess, Alameda; Alan Ryan, Economic Development Corporation; Dorothy Freeman, Alameda; Jon Spangler, Alameda; David Kirwin, Alameda; Robb Ratto, Alameda; Patricia Baer, Alameda; Reid Wetherill, Alameda; Iris Watson, Alameda; Arthur Lipow, Alameda; Kate Eckhaus, Alameda; Richard Eckhaus, Alameda; Barbara Mooney, Alameda; Nick Petrulakis, Alameda; Rosemary McNally, Alameda; Philip Jaber, Encinal Hardware; Richard Biggar, Alameda;

Opponents (Not in favor of Appeal): Allan Ryan, Alameda; Robert Mananquil, Trader Joe's; Peter Schamoni, Alameda Realty Center; James Robinson, Fit Lite by 24 Hour Fitness; David Estep, Massage Envy; Steve Hill, Orchard Supply Hardware; Mike Corbit, Harsch Development; Randy Kyte, Harsch Development.

Neutral: Bill Smith, Alameda.

There being no further speakers, Mayor Johnson closed the public portion of the hearing.

Vice Mayor Tam stated that the staff report mentions that there is an existing Planned Development Agreement (PDA) that modifies the Alameda Municipal Code by requiring a PDA for an expansion over 5% of the total shopping center area; the analysis shows there would still be approximately 2% of the total square footage if the garden center is included in the calculation; inquired whether said analysis is correct, to which the Supervising Planner responded in the affirmative.

Vice Mayor Tam stated that she is having trouble understanding what is considered in the square footage and what is not.

The Supervising Planner stated the [garden] floor area is not part of the building but would have merchandise for sale; additional parking would not be required if an existing business wanted to add an unenclosed garden area; additional parking might be required if the building site was increased; adding square footage to the shopping center would not trigger a planned development amendment.

Vice Mayor Tam stated the existing planned development amendment is more stringent; inquired whether the higher square footage [including garden area] falls under the 5% trigger in the existing planned development amendment, to which the Supervising Planner

responded in the affirmative.

Councilmember deHaan stated technical aspects are not the issue tonight; the issue is what Alameda's want; every EDC leakage study contained a paragraph stating that existing retailers would not be affected; urbanists advise that the City should look at retail nodes; Alameda has fourteen retail nodes which are extremely important; the businesses discussed tonight are anchors; a major Alameda asset [nodes] could collapse if anchors disappear; that he is concerned with the fabric of Alameda; retail mix needs to be reviewed and should go to the EDC for review.

Mayor Johnson inquired whether the retail leakage analysis was done through the EDC.

The Supervising Planner responded the Alameda Landing project was thoroughly vetted through a wide variety of Boards and Commissions.

Mayor Johnson stated that she remembers a series of EDC meetings held throughout the community; inquired whether the meetings were part of the retail analysis, to which the Planning Services Manager responded in the affirmative.

Councilmember deHaan stated there were no less than four different retail analyses; all of the analyses said the same thing.

(08-400) Councilmember Matarrese moved approval of continuing the meeting past midnight.

Vice Mayor Tam seconded the motion, which carried by unanimous voice vote - 5.

Councilmember Matarrese stated a resolution adopted by the Planning Board in 2003 required the applicant to submit a plan for a Planned Development Amendment and Major Design Review prior to the issuance of building permits for the Phase that includes the present car wash site, Building 1800, Building 1000, and subsequent phases; inquired how said resolution impacts tonight's discussion.

The Supervising Planner responded the Applicant was required to come back with a different design for the shoreline area and gas station location; the Planning Board did not want the 2003 Building 1000 built until a new Planned Development Amendment addressed the shoreline area; the Applicant complied in 2005 and currently is going through Planning Board hearings; the 2003 Building 1000 is not the same building being discussed tonight; the 2003 building

was much larger and in a different location.

Councilmember Gilmore stated that she was on the Planning Board at that time; that she remembers the discussion regarding the shoreline site and wanting to put restaurants at the former movie theatre site; Page 14, paragraph 22 states that "The project may include one store up to 90,000 square feet in floor area and two stores each up of up to 60,000 square feet. Any larger store shall require a Planned Development Amendment. Additions or modifications of less than 5% in overall center area may be approved by Administrative Design Review"; she has been a customer of all retail establishments discussed tonight; she understand the concerns; one speaker brought up the cigarette store on Park Street; the City was sued and had to pay the rent for several years until tenants rented the site; she needs to balance the consideration of potentially being sued by the shopping center and the precarious budget; she wants Alameda to be known as a City that lives up to agreements.

Vice Mayor Tam stated the City's policies reflect the concern and desire to make sure that small businesses survive; the City has allocated money to support the Park Street Business Association, West Alameda Business Association, and Greater Alameda Business Association; a lot of money is spent on advertising, landscape and lighting, and façade grants; the City cannot dictate the tenant at a particular site; the City has to abide by established agreements with Alameda Towne Center; there is not a lot of choice in determining tenants at Alameda Towne Centre.

Vice Mayor Tam moved adoption of the resolution [upholding the Planning Board's decision].

Councilmember Gilmore seconded the motion.

Under discussion, Councilmember Gilmore stated the reality is that OSH could take the building as is and open in one month because OSH is a permitted use.

Councilmember deHaan stated Alameda Towne Centre is part of Alameda; the developer would advise the City of an anticipated lawsuit; inquired whether Councilmember Gilmore heard anything on the issue.

Councilmember Gilmore responded in the negative; stated she would be remiss if she did not consider the possibility of a lawsuit.

Councilmember deHaan stated the City put caveats into the Alameda Landing PDA; a decision should be postponed for further discussion.

Councilmember Gilmore stated Council discussed the type of retail desired for the Bridgeside Shopping Center; the City did not get the upscale retail desired; the developer showed her pages of failed attempts to get upscale tenants; incentives can be provided, but the free market allows a business to calculate whether money can be made in Alameda.

Mayor Johnson stated that she met with the Appellants and Alameda Towne Centre representatives; OSH is not her first choice; Alameda Towne Centre representatives tried to get other tenants, including electronic retailers; the City is not the property owner and cannot select the tenants; the City is very supportive of small businesses and has invested a lot of money in streetscapes, Theater renovation, and façade grants; South Shore continued to decline over the last forty-five years; the City cannot buy or take over the lease; small businesses can compete.

Councilmember Matarrese stated the City has a certain amount of control over what comes into the business districts; the EDC and Planning Board need to review whether permitted uses should be adjusted because times have changed; the 2003 Planning Board resolution is a complex document and sets the context for what would happen when the project came forward; OSH is a permitted use and the project should be approved.

Mayor Johnson stated the City of Vallejo was fighting over what should go into the City; retailers decided to relocate across the border of Vallejo; Alameda does not have enough sales and property tax revenue; Measure P is being placed on the ballot reluctantly; the voters will decide whether to support Measure P or have very significant cuts made to the City budget.

Councilmember deHaan stated Target had an exclusive agreement twice with Alameda Towne Center, Enterprise Landing, and Alameda Landing; Target is a good fit at Alameda Landing; OSH could be a better fit at Alameda Landing; putting OSH in the center of the City would create a major impact.

On the call for the question, the motion carried by the following voice vote: Ayes: Councilmembers Gilmore, Matarrese, Tam, and Mayor Johnson - 4. Noes: Councilmember deHaan - 1.

(08-401) Public Hearing to consider an Ordinance Amending Various Sections of the Alameda Municipal Code Contained in Article I (Zoning Districts and Regulations) of Chapter XXX (Development Regulations) to Prohibit Single Retail Stores Larger than 90,000 Square Feet in Size that Include More Than Ten-Percent Sales Floor

Area Devoted to Non-taxable Merchandise. Introduced.

The Planning Services Manager gave a brief presentation.

Councilmember Matarrese inquired how the proposed ordinance would affect the existing Development Agreements.

The Planning Services Manager responded one Development Agreement is with Harbor Bay Business Park and protects changes in zoning requirements; the other Development Agreement is with Alameda Landing.

Councilmember Gilmore inquired whether Bridgeside Shopping Center, the Northern Waterfront, and Alameda Point would be affected by the proposed ordinance.

The Planning Services Manager responded all areas would be subject to the proposed ordinance; stated MX zoning would require Master Plans to be developed; Master Plans are mini ordinances for an area.

Mayor Johnson requested clarification on where the proposed ordinance would apply.

The Planning Services Manager stated the proposed ordinance would apply to everywhere in the City with the exception of the area covered by the Alameda Landing Development Agreement and Harbor Bay Development Agreement.

Mayor Johnson opened the public portion of the hearing.

Proponents (In favor of Ordinance): Mike Henneberry, UFCW Local 5; John Nunes, UFCW Local 5; David Kirwin, Alameda; Phil Tucker, California Healthy Communities Network; Mark Wolfe, California Healthy Communities Network; Karen Bey, Alameda; Jon Spangler, Alameda.

There being no further speakers, Mayor Johnson closed the public portion of the hearing.

Councilmember deHaan stated the second paragraph on Page 2 of the staff report states that "Existing projects with approved Development Agreements that specifically limit the City's ability to impose new regulations, such as Alameda Landing and Harbor Bay Business Park, may be exempt from the prohibition"; inquired why "may be" is used.

The City Attorney responded the prohibition would depend on the

provisions within the relevant Development Agreement; stated the Development Agreement would need to be reviewed; the Alameda Landing and Harbor Island Associates Development Agreements are exempt from the proposed ordinance.

Councilmember Matarrese stated "may be" should be changed to "are."

Councilmember Gilmore stated the proposed ban went before the Planning Board and EDC; inquired what was the recommendation.

The Planning Services Manager responded the immediate reaction was that there is already a Use Permit process that allows the City to turn down stores that do not work and also provides the flexibility to approve stores that work; the City does not want to send the message that the City is anti-business by adopting flat out prohibitions; the Planning Board raised a couple questions regarding administrative management.

Councilmember Gilmore stated the Planning Board and EDC agreed that the community does not want a Walmart or a super center; that she is troubled that neither the Planning Board or EDC thought that prohibition was not the best tool.

Councilmember Matarrese stated that the Planning Board did not think the matter is a planning issue but more of an economic issue; that he appreciates the focus on economics; there was consensus that some type of prohibition is needed but sending the wrong message is a concern; a Use Permit is needed for a building that is greater than 30,000 square feet; Council has the benefit of Planning Board and EDC discussions.

Mayor Johnson stated the measure is reasonable and is not too restrictive or overly broad; the proposed ordinance does a good job of accomplishing the goal with the combination of square footage and non-taxable.

Councilmember deHaan stated that he supports the proposed ordinance; leakage studies show that there is room for only one more grocery store; the Del Monte project will take care of that need; a grocery store threshold is approximately 160,000 square feet; a Walmart is approximately 210,000 square feet.

Mayor Johnson inquired what is the status of the Del Monte project.

The Planning Services Manager responded shell improvements are being made; stated a large format retail Use Permit will be needed before occupancy if there is over 30,000 square feet of retail; one to two years of structural work is needed.

Vice Mayor Tam stated the proposed ordinance is a better tool than using a Major Design Review and is consistent with the City's policy to protect small businesses; the EDC minutes are very precise; the EDC clearly understands the principle of using zoning to ensure that there are businesses that promote good labor practices; the EDC recognizes the other principles that go with the economic and community impact of having a super store in Alameda; the EDC would like to see a more nuance ordinance; it was not clear what the nuance tool would look like.

Vice Mayor Tam moved introduction of the ordinance.

Councilmember Matarrese seconded the motion, which carried by unanimous voice vote - 5.

Councilmember Gilmore requested staff to review the feasibility of having the EDC and Planning Board review Use Permits for 30,000 square feet or more.

ORAL COMMUNICATIONS, NON-AGENDA

(08-402) Bill Smith, Alameda, discussed energy efficiency.

(08-403) Robb Ratto, Alameda, stated that he questions a procedure that allows people with no standing to appeal a Planning Board decision on a residential matter; inquired whether there is any way to limit who can appeal a residential Planning Board decision.

COUNCIL REFERRALS

(08-404) Consideration of Resolution No. 14269, "Amending Resolution No. 12121 Setting the Order of Business of City of Alameda City Council Meeting." Adopted.

Mayor Johnson stated that having a section on the agenda for City Manager staff communications would be a good idea; the public would be updated on significant issues.

Councilmember Matarrese stated placement of the item could be adjusted; the item should be before the Consent Calendar.

Councilmember Gilmore suggested that the item be placed before or after the Consent Calendar.

Vice Mayor Tam stated placement would depend upon the subject.

Mayor Johnson stated the community needs to be kept informed of

significant items; most meetings would not have City Manager reports.

The City Manager suggested that the item be placed before regular agenda items.

Councilmember Matarrese moved adoption of the resolution, with moving City Manager Communications before Agenda items.

Councilmember deHaan seconded the motion, which carried by unanimous voice vote - 5.

COUNCIL COMMUNICATIONS

(08-405) Consideration of Mayor's nominations for appointment to the Economic Development Commission and Youth Advisory Commission.

Mayor Johnson nominated Harry Dahlberg and Michael J. Schmitz for reappointment to the Economic Development Commission and continued nominations for remaining vacancies; nominated Maggie Mei for appointment to the Youth Commission; continued nominations for remaining vacancies.

(08-406) Councilmember deHaan stated there would be a review of the conceptual portion for the Alameda Point project September 19, 2008; he was hoping that the matter would come back to Council.

The Assistant City Manager stated many meetings have been held with committees; a joint meeting is being scheduled with the Transportation Commission and Alameda Reuse and Redevelopment Authority for acceptance of the Master Plan prior to November.

Councilmember deHaan inquired whether the matter would be reviewed by anyone else.

The Assistant City Manager responded the matter would be going to the Recreation and Park Commission, Planning Board, etc.

ADJOURNMENT

There being no further business, Mayor Johnson adjourned the Regular Meeting at 1:05 a.m.

Respectfully submitted,

Lara Weisiger
City Clerk

Agenda for meeting was posted in accordance with the Brown Act.

MINUTES OF THE SPECIAL CITY COUNCIL MEETING
TUESDAY- -SEPTEMBER 16, 2008- -6:00 P.M.

Mayor Johnson convened the Special Meeting at 6:00 p.m.

Roll Call - Present: Councilmembers deHaan, Gilmore,
Matarrese, Tam, and Mayor Johnson - 5.

Absent: None.

The Special Meeting was adjourned to Closed Session to consider:

(08-382) Public Employee Performance Evaluation (54957); Title:
City Manager.

(08-383) Conference with Legal Counsel - Existing Litigation
(54956.9); Name of case: Collins v. City of Alameda.

Following the Closed Session, the Special Meeting was reconvened and Mayor Johnson announced that regarding Public Employee, Council and the City Manager met for a periodic performance review; no action was taken; regarding Existing Litigation, Council received a briefing from Legal Counsel regarding the status of litigation and potential settlement discussions and gave direction to Legal Counsel.

Adjournment

There being no further business, Mayor Johnson adjourned the Special Meeting at 7:55 p.m.

Respectfully submitted,

Lara Weisiger
City Clerk

The agenda for this meeting was posted in accordance with the Brown Act.

MINUTES OF THE SPECIAL COMMUNITY IMPROVEMENT COMMISSION MEETING
TUESDAY- -SEPTEMBER 16, 2008- -7:25 P.M.

Chair Johnson convened the Special Community Improvement Commission Meeting at 8:06 p.m. Commissioner Tam led the Pledge of Allegiance.

ROLL CALL - Present: Commissioners deHaan, Gilmore, Matarrese, Tam, and Chair Johnson - 5.

Absent: None.

CONSENT CALENDAR

Commissioner Tam moved approval of the Consent Calendar.

Commissioner Gilmore seconded the motion, which carried by unanimous voice vote - 5. [Items so enacted or adopted are indicated by an asterisk preceding the paragraph number.]

(*08-48) Minutes of the Special Joint City Council, Alameda Reuse and Redevelopment Authority, and Community Improvement Commission Meetings held on August 19, 2008; and Special Joint City Council, Community Improvement Commission, and Housing Authority Board of Commissioners Meeting of September 2, 2008. Approved.

(*08-49) Recommendation to authorize the Executive Director to execute an Amendment to the Master Consulting Agreement with Harris & Associates for Engineering and Construction Support Services for the final phase of the Bayport Project by adding additional budget authority in an amount not to exceed \$198,000 (of which \$104,000 will be reimbursed by the homebuilder for In-Tract Plan Review and Inspection). Accepted.

AGENDA ITEMS

None.

ADJOURNMENT

There being no further business, Chair Johnson adjourned the Special Meeting at 8:07 p.m.

Respectfully submitted,

Lara Weisiger
Secretary

The agenda for this meeting was posted in accordance with the Brown Act.